

**IN THE CLAIMS**

Please AMEND claim 37 as follows. A complete listing of the claims follows.

1. (Previously presented) A mouthguard for insertion into a wearer's mouth to protect the wearer's teeth and temporomandibular joint from trauma, said mouthguard comprising:

a generally curved, flexible member having a longitudinal extent and including a central portion for protecting the wearer's anterior teeth and two end members each extending rearwardly from said central portion for protecting the wearer's posterior teeth, said flexible member having a front surface adjacent the wearer's lips and cheeks, a rear surface adjacent the wearer's anterior and posterior teeth when the mouthguard is inserted into the wearer's mouth, and a thickness defined by the distance between the front and rear surfaces;

a first groove extending into one of said front and rear surfaces a predetermined depth less than the thickness of said flexible member, said groove defining a first hinge permitting flexing of a portion of the flexible member about said hinge to conform to the wearer's mouth; and

a pair of bite tabs extending along a substantial portion of said longitudinal extent and projecting inwardly from said central portion and said end members, said bite tabs being adapted to be engaged by at least one of the wearer's anterior teeth and one of the wearer's posterior teeth.

2. (Previously presented) The mouthguard of claim 1, further comprising a division between said bite tabs.

3. (Previously presented) The mouthguard of claim 2, wherein said first and second bite tabs each have an anterior section adapted to be engaged by at least one anterior tooth and a posterior section adapted to be engaged by at least one posterior tooth.

4. (Previously presented) The mouthguard of claim 3, wherein said anterior and posterior sections of said bite tabs are adapted to be engaged by all of a wearer's teeth.

5. (Previously presented) The mouthguard of claim 3, wherein the anterior and posterior sections of said first bite tab have substantially the same thickness.

6. (Previously presented) The mouthguard of claim 3, wherein the thickness of the anterior section of said first bite tab is different than the thickness of the posterior section of said first bite tab portion.

7. (Original) The mouthguard of claim 1, wherein said groove extends generally horizontally across at least one of the front and rear surfaces of said flexible member when said mouthguard is placed in the wearer's mouth such that a portion of said flexible member is adapted to hinge about the groove to conform to the wearer's mouth.

8-21. (Cancelled)

22-26. (Cancelled)

27. (Previously presented) A mouthguard comprising:

a frame member having an inwardly facing rear surface disposable adjacent a wearer's teeth, and an outwardly facing front surface disposable adjacent to the wearer's lips and cheeks, one of said front and rear surfaces includes a transition separating said one surface into first and second portions that are offset from each other such that the first portion extends outwardly further than second portion;

a first bite tab portion adapted to engage at least a portion of a front tooth of the wearer when the jaw of wearer is closed, said first bite tab portion having a proximal side adjacent the rear surface of said frame member, and a distal side opposite the proximal side;

a second bite tab portion adapted to engage at least a portion of a back tooth of the wearer when the jaw of wearer is closed, said second bite tab portion having a proximal side adjacent the rear surface of said frame member, and a distal side opposite the proximal side; and

wherein the mouthguard protects the teeth of the wearer without inducing gagging and need not be boiled or trimmed prior to being used by the wearer.

28. (Previously Presented) The mouthguard of claim 27, wherein said transition comprises a shoulder.

29. (Previously presented) The mouthguard of claim 27, wherein said one surface is the front surface of said frame member, said first portion of the front surface comprises an upper portion for protecting the upper teeth of the wearer, said second portion of the front surface comprises a lower portion for protecting the lower teeth of the wearer, and said lower portion is set back from said upper portion.

30. (Previously presented) The mouthguard of claim 29, wherein said transition is disposed in said outwardly facing front surface.

31. (Previously presented) The mouthguard of claim 27, wherein said bite tab portions project from a region of the rear surface of said frame member adjacent said transition.

32. (Previously presented) The mouthguard of claim 27, wherein said first and second bite tab portions are adapted to engage a portion of both the top and bottom teeth of the wearer when the jaw of the wearer's mouth is closed.

33. (Previously presented) The mouthguard of claim 27, wherein said first and second bite tab portions are integrally formed with one another.

34. (Previously presented) The mouthguard of claim 27, wherein said first bite tab portion includes a division that provides added flexibility to the bite tab portion.

35. (Previously presented) The mouthguard of claim 34, wherein the division comprises a slit arising from the distal side of the first bite tab portion.

36. (Previously presented) The mouthguard of claim 2, wherein said division comprises at least one of a narrow opening, a partial split, and a complete split.

37. (Currently amended) The mouthguard of claim 36, further comprising a plurality of divisions in said bite ~~tab~~tabs dividing said bite ~~tab~~tabs into at least three sections.

38. (Previously presented) The mouthguard of claim 37, wherein said plurality of divisions comprise at least one of a narrow opening, partial split, and complete split.

39. (Previously presented) The mouthguard of claim 36, wherein said division is located in one of an anterior and posterior section of one of said bite tabs.

40. (Previously presented) The mouthguard of claim 1, wherein the front surface of said flexible member is designed to lie adjacent to the wearer's lips and cheeks, and the rear surface of said flexible member is designed to lie adjacent to at least some of the wearer's teeth so as to allow the muscles of the lips and cheeks of the wearer to retain the mouthguard.

41. (Previously presented) The mouthguard of claim 34, wherein said division comprises at least one of a narrow opening, a partial split, and a complete split.